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\*Admission to the bar pending  
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Attorneys for Proposed *Amici Curiae*

**UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA**

IN THE MATTER OF THE SEARCH	)	ED No. CM 16-10 (SP)
OF AN APPLE IPHONE SEIZED	)	
DURING THE EXECUTION OF A	)	<b>APPLICATION OF AMERICAN</b>
SEARCH WARRANT ON A BLACK	)	<b>CIVIL LIBERTIES UNION OF</b>
LEXUS IS300, CALIFORNIA	)	<b>SOUTHERN CALIFORNIA ET</b>
LICENSE PLATE 35KGD203.	)	<b>AL. TO FILE BRIEF OF AMICI</b>
	)	<b>CURIAE; PROPOSED BRIEF</b>

Hearing Date: March 22, 2016  
 Time: 1:00 pm  
 Courtroom: Courtroom 3 or 4  
 Judge: Hon. Sheri Pym

FILED  
 2016 MAR -2 PM 3:00  
 CLERK U.S. DISTRICT COURT  
 CENTRAL DIST. OF CALIF.  
 RIVERSIDE

*Admitted (proposed)*

1           **APPLICATION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE**

2           Proposed *amici curiae* the American Civil Liberties Union (“ACLU”),  
3 ACLU of Southern California, ACLU of Northern California, and ACLU of San  
4 Diego and Imperial Counties, by and through undersigned counsel, hereby move  
5 the Court for leave to file the attached Brief of *Amici Curiae* in the above-  
6 captioned case.

7           In support of this motion, proposed *amici* state the following:

8           The disposition of this case is of critical importance to Americans’ privacy  
9 and cybersecurity because the government seeks to compel a technology  
10 company to create software designed to weaken the security of its own devices—  
11 an effort that, if successful, would set precedent implicating the security and  
12 privacy of hundreds of millions of Americans. This case raises both statutory and  
13 constitutional questions regarding the limits of law enforcement authority to  
14 compel private parties to assist in investigations.

15          Proposed *amici* argue that the request is not authorized by the All Writs  
16 Act because the Act does not permit the government to force innocent third  
17 parties to turn over information not already in their possession or control, because  
18 the assistance the government seeks is unreasonably burdensome and  
19 unnecessary, and because Congress has deliberately withheld from the  
20 government the authority to require technology companies to circumvent the  
21 security protections in their devices. Proposed *amici* also argue that the order the  
22 government seeks violates the Fifth Amendment, and that principles of  
23 constitutional avoidance counsel against granting the government’s request.

24          Proposed *amici* frequently appear as direct counsel or *amicus curiae* in  
25 cases raising similar legal issues to those here.

26          Proposed *amicus* the American Civil Liberties Union is a nationwide,  
27 nonprofit, nonpartisan organization with approximately 500,000 members

1 dedicated to the principles of liberty and equality embodied in the Constitution  
2 and this nation's civil rights laws. Since its founding in 1920, the ACLU has  
3 frequently appeared before the Supreme Court and other federal courts, both as  
4 direct counsel and as *amicus curiae*, in numerous cases implicating Americans'  
5 right to privacy. The ACLU and its members have long been concerned about the  
6 impact of new technologies on constitutional rights. The ACLU is particularly  
7 concerned with protecting the lawful use of strong encryption technologies, which  
8 are essential to preserving the constitutional guarantees of privacy, free  
9 expression, and anonymity in the digital age. The ACLU of Southern California,  
10 the ACLU of Northern California, and the ACLU of San Diego and Imperial  
11 Counties are the geographic affiliates in California of the ACLU.

12 Counsel for *amici curiae* states that no counsel for a party authored this  
13 brief in whole or in part, and no person other than *amici curiae*, their members, or  
14 their counsel made a monetary contribution to its preparation or submission.

15 Wherefore, proposed *amici* respectfully request leave to file the attached  
16 Brief of *Amici Curiae*, to aid this Court in its consideration and resolution of the  
17 issues in this case.

18  
19 March 2, 2016

Respectfully Submitted,

20  
21 By: 

Peter Bibring

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24 \*Application for admission to the bar  
25 pending

26 Attorneys for *amici curiae*  
27

**PROOF OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is ACLU of Southern California, 1313 West 8th Street, Los Angeles, CA 90017.

On March 2, 2016, I caused to be served through mail (USPS) and e-mail the foregoing document described as:

**APPLICATION OF AMERICAN CIVIL LIBERTIES UNION OF  
SOUTHERN CALIFORNIA ET AL. TO FILE BRIEF OF AMICI  
CURIAE; PROPOSED BRIEF**

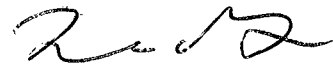
on each person on the attached Service List.

Executed on March 2, 2016, in Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Diana Gonzalez

Print Name



Signature

**Service List**

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